

IN THE MATTER OF
SOLOMON, MURRAY R., D.P.M.

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LICENSE No. 0354

BEFORE THE TEXAS STATE
BOARD OF PODIATRIC
MEDICAL EXAMINERS

SITTING IN AUSTIN,

TRAVIS COUNTY, TEXAS

TEXAS PODIATRIC
MEDICAL EXAMINERS

DEC 15 2004

RECEIVED

AGREED ORDER

BE IT REMEMBERED that on the date approved and entered below, came to be considered the allegations against Murray R. Solomon, DPM. By letters dated August 17, 2004, October 11, 2004 and October 19, 2004 the staff of the Texas State Board of Podiatric Medical Examiners (the "Board") gave preliminary notice to Dr. Solomon of its intent to investigate complaints, concerns or reports filed against him. Dr. Solomon was duly notified of the allegations against him. Dr. Solomon has cooperated with the staff of the Board and was given the opportunity to present information in rebuttal.

By his signature on this Order, and upon acceptance and entry of this Order by the Board, Dr. Solomon does hereby waive his right to an administrative hearing before the State Office of Administrative Hearings, and judicial review of this Order. Dr. Solomon understands that he has the option, before signing this Agreed Order, to participate in a contested case hearing under the *Administrative Procedure Act*.

The Board and Dr. Solomon, in order to avoid the expense, delay and uncertainty of a hearing, have agreed to the entry of an Order dispensing with the need for further action in this matter. Dr. Solomon agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the Findings of Fact and Conclusions of Law set out in this Order. The Board makes the following Findings of Fact and Conclusions of Law and enters this Order:

FINDINGS OF FACT

1. Dr. Solomon is licensed as a podiatric physician in the State of Texas (License Number 0354 / "Retired") to practice podiatric medicine and is therefore subject to the jurisdiction of the Board, the Podiatric Medical Practice Act of Texas and the rules of the Board.
2. A complaint was filed against Dr. Solomon, and he was provided with notice of the complaint and with an opportunity to respond to the complaint and to show compliance with the law.
3. Dr. Solomon, as a podiatrist licensed in the State of Texas, must comply with the Podiatric Medical Practice Act of Texas, the Board rules and Board orders.
4. Upon his request, on October 31, 2001, Dr. Solomon's license was placed on a "Retired" status due to medical issues.

5. Effective March 1, 1988, Monarch Life Insurance Company (Springfield, Massachusetts) issued policy no. 1947190 to Dr. Solomon.
6. Beginning in August 1999, Dr. Solomon sought total disability benefits under the policy due to his medical problems. Dr. Solomon was paid all total disability benefits from the date of his claim through May 28, 2004, for a total sum of \$57,178.00.
7. On January 28, 2004 and January 29, 2004, investigators with Monarch Life Insurance Company, through surveillance video, observed Dr. Solomon playing golf. The Texas State Board of Podiatric Medical Examiners has viewed the same video obtained through Subpoena to investigate the complaint allegations.
8. Review of Dr. Solomon's medical records by Monarch Life Insurance Company show that Dr. Solomon's treating physician, a Board Certified neurologist, had recommended surgical intervention. Dr. Solomon sought a second opinion from another physician specializing in hand surgery and this physician also recommended surgical decompression. A third hand surgeon was consulted who ultimately did not recommend surgery and was unable to provide any treatment which would significantly benefit Dr. Solomon at that time. Dr. Solomon elected not to undergo surgery to alleviate his symptoms. Dr. Solomon states his actions were not in conflict with his policy agreement.
9. On May 28, 2004, Dr. Solomon surrendered his life insurance policy.
10. Dr. Solomon submitted a sworn statement to the Board dated September 18, 2004 indicating he has recovered physically and has full use of his hands. Dr. Solomon further indicated an orthopedic surgeon diagnosed him with a "torn rotator cuff and spurs in the right shoulder and spurs and bursitis in the left shoulder." Dr. Solomon underwent right shoulder surgery on April 28, 2004 and left shoulder surgery on July 26, 2004.
11. Despite the above referenced medical care provided to Dr. Solomon, the Board finds that Dr. Solomon's actions of January 28, 2004 and January 29, 2004 (playing golf) are in contradiction to his initial claims to the Board and Monarch Life Insurance Company that he was disabled at that time.
12. Dr. Solomon denies these allegations in their entirety.

CONCLUSIONS OF LAW

1. Dr. Solomon is required to comply with the Podiatric Medical Practice Act, Texas Occupations Code, §202.001, et seq., and the associated rules of the Board, 22 Tex. Administrative Code § 371.1, et seq.
2. Texas Occupations Code, §202.253(a)(4) provides that, "the board may refuse to issue a license to practice podiatry to a person, for engaging in grossly unprofessional or dishonorable conduct of a character that in the board's opinion is likely to deceive or defraud the public."
3. Texas Occupations Code, §202.253(a)(5) provides that, "the board may refuse to issue a license to practice podiatry to a person, for directly or indirectly violating or attempting to violate this chapter or a rule adopted under this chapter as a principal, accessory, or accomplice."
4. Texas Occupations Code, §202.501(a) provides that, "the Board shall revoke or suspend a license; place on probation a person whose license has been suspended, or reprimand a license holder for violating the law regulating the practice of podiatry or a rule adopted by the board."

5. Texas Occupations Code, §202.5015 provides that a license holder who engages in conduct described by Section 202.253 violates this chapter.
6. 22 Texas Administrative Code, §376.1(a)(1) provides that, "any podiatric physician who violates any provision of these rules, or any provision of the Act shall be at the discretion of the Board subject to the following penalties: cancellation, suspension, revocation, or probated cancellation, revocation, or suspension of the license to practice podiatric medicine."
7. The Board concludes that Findings Of Fact numbers 1 through 12 establish that Dr. Solomon violated: *Texas Occupations Code*, §202.253(a)(4) in that he, "engaged in grossly unprofessional or dishonorable conduct of a character that in the board's opinion is likely to deceive or defraud the public."
8. The Board concludes that Findings Of Fact numbers 1 through 12 establish that Dr. Solomon violated: *Texas Occupations Code*, §202.253(a)(5) in that he "violated this chapter as a principal."

ORDER

1. Dr. Solomon shall pay an administrative penalty of \$1,000.00 (One Thousand Dollars and no/100) fully due and payable within 180 (one-hundred and eighty) days after the effective date of this Agreed Order.
2. Dr. Solomon shall complete an additional five (5) hours of Continuing Medical Education in addition to the thirty (30) hours already required by law. The five (5) hours shall consist of ethics courses offered by the Texas Podiatric Medical Association or the Texas Medical Association, and shall be completed by October 31, 2005. Proof of completion of the additional hours shall be submitted to the board in the form of authorized certificates by November 30, 2005.
3. Entry of this Order shall finally resolve any and all matters or investigations before the Board pending as of the date this Order is approved by the Board.
4. The terms of this Agreed Order, if accepted by the Board, become effective upon approval of the Board.
5. If Dr. Solomon fully complies with the terms of the Agreed Order, the Board agrees not to bring any further disciplinary action regarding the facts that are the subject of this Order.
6. Failure to comply with all the terms of this order subject Dr. Solomon to further and additional disciplinary and enforcement action.

GENERAL PROVISIONS

1. Effective Date. This Agreed Order shall take effect and become binding upon the approval by the Board.
2. No Waiver. No waiver of any of the terms of this Agreed Order shall be valid unless in writing. No waiver of default of any terms of the Agreed Order shall be deemed a waiver of any subsequent breach or default of the same or similar nature.
3. Governing Law. This Agreed Order is entered into pursuant to and shall be construed in accordance with the laws of the State of Texas including

Tex. Occup. Code Ann., §202.001 et seq., the Podiatric Medical Practice Act., and the Tex. Gov't Code Ann., §2001.001 et seq., the Administrative Procedure Act.

4. Acknowledgment of Entire Agreement. Dr. Solomon acknowledges that he has carefully read this instrument, including all documents or exhibits, if any, that are referred to, that this instrument expresses the entire agreement between the parties concerning the subjects it purports to cover, and Dr. Solomon has executed this instrument freely and of his own accord.
5. Notice. Any notice to be given under the terms of this Agreed Order by either party to this order shall be in writing and shall be delivered by personal delivery or certified mail, return receipt requested, to the following addresses:

Murray R. Solomon, DPM
2912 Country Place Circle
Carrollton, TX 75006

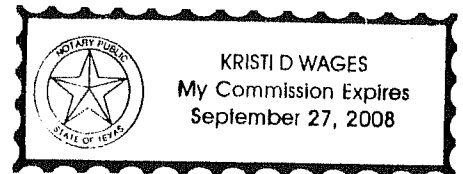

Texas State Board of Podiatric Medical Examiners
P.O. Box 12216
Austin, TX 78711-2216

6. Upon approval of this Agreed Order by the Board, the Presiding Officer and the Executive Director are authorized to sign the Order on the Board's behalf.

I, MURRAY R. SOLOMON, DPM, HAVE READ AND UNDERSTAND THE FOREGOING ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE THE RIGHT TO A HEARING BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS AND TO JUDICIAL REVIEW OF THE AGREED ORDER. I SIGN IT VOLUNTARILY. I UNDERSTAND THE AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, ORAL, WRITTEN OR OTHERWISE.

Murray R. Solomon, DPM
Murray R. Solomon, DPM

12/14/04
Date



IN THE STATE OF TEXAS

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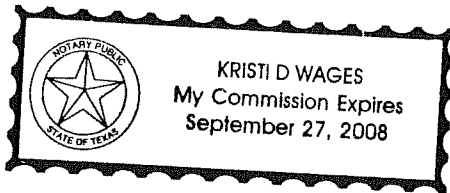
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COUNTY OF DALLAS

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BEFORE ME, on this day personally appeared Murray R. Solomon known to me, who first, being duly sworn, signed the foregoing **Agreed Order** in my presence.

SIGNED on this the 14th day of December 2004.



Kristi WAGES
(Printed Name of Notary Public)

[Signature]
Notary Public, in and for the State of Texas

APPROVED AND ENTERED by the Texas State Board of Podiatric Medical Examiners on this the 28th day of February, 2005, after a Board vote.

[Signature]
Bradford W. Glass, D.P.M.
Board President

[Signature]
Jim Zukowski, Ed.D.
Executive Director